

1, 2, 3 and 4. We are of the opinion that the assessors of the two townships should equalize and determine the amount to be contributed by each municipality to make up the annual requisition by the trustees, because the last equalization is inapplicable to the new union school section. It is the duty of the assessor of the township in which the union school is situate to call the meeting of the assessors.

Seat of Councillor Becomes Vacant on His Making an Assignment.

323—R. M. T.—Can a councillor who qualified by his own assessment, although his wife had property to qualify him, and who since his election has assigned for the benefit of his creditors, still hold his seat as councillor, although his wife's property was not affected by his assignment?

Section 207, of the Municipal Act, makes provision for a case of this kind. It provides that "if, after the election of a person as a member of a council he assigns his property for the benefit of his creditors, his seat in the council shall thereby become vacant, and the council shall forthwith declare the seat vacant, and order a new election." The fact of this person's wife having property sufficient to qualify him under the Act does not counteract the effect of the statutory provision.

A By-law Locally Restraining Running at Large of Cattle.—Fines can be Imposed on Owners of Cattle Running at Large.

324 C. D. C.—I enclose a copy of by-law and would be obliged for an expression of opinion as to the power of the municipal council to enact the clauses marked. The town plot of M. was laid out by the government and plan registered. The village of M. (not incorporated) is situated on part of this town plot. The following are the clauses marked: "4. Except as provided in the preceding section, and except in the town plot for the village of Minden, horned cattle may run at large on the common or on the highways of the municipality."

"14. Any person may lay an information against the owner of any animal unlawfully running at large, although the animal may not have been impounded.

15. No bulls, rams, horses, donkeys, mules or goats shall run at large under a penalty of not less than fifty cents or more than two dollars.

16. No cattle known to be breechy shall run at large under a penalty of one dollar each.

17. No pigs shall run at large under a penalty of fifty cents each.

18. No sheep shall run at large under a penalty of ten cents each."

We are of opinion that the council was acting within its powers in enacting clause 4, of the by-law, in so far as it relates to the restraining of the running at large of cattle on the highways of the unincorporated village of M. It is in the power of the corporation to enforce the provisions of a by-law of this kind by the imposition of a fine on the owners of the animals running at large. (Smith vs. Riorden, 5 U. C., Q. B., O. S., 647,) as is done by clauses 14, 15, 16, 17 and 18, of this by-law. See, also, re John Milloy and the municipal council of the township of Onondaga. (6, O. R., 573.)

Trustees Should Keep School-House in Repair.

325—SUBSCRIBER Child accidentally breaks window glass. Teacher sends word to father that it must be paid for and accordingly the money was sent to the teacher. Some time after the trustees meet to repair, etc., around school-house. This particular pane was passed over, and instructed teacher to send word "that the pane must be replaced as soon as possible," and tells the father how to get the key, etc. Money was returned.

1. Is the father obliged to go and replace the pane under the circumstances?

2. Has teacher or trustee power to direct or compel children or any one else to work or repair around the school premises?

3. How should this window be replaced and paid for legally?

1. If the father is willing to pay the cost of replacing the pane of glass accidentally broken by his child, that is all he can be expected to do.

2. No.

3. It is the duty of the school trustees to keep the school premises in repair. (See sub section 4, of section 65, of the Public Schools Act, 1901,) and they should see that the pane of glass is replaced.

Township Where Local Option in Force.

326—E. G.—Kindly let me know if there is a township in Ontario which has the Local Option Act in force, and if so, what is the name of the clerk and his address?

We perceive that you refer to by-laws passed pursuant to section 141 of the Liquor License Act, (R. S. O., 1897, chap. 245.) We believe that there is a by-law of the kind at present in force in the township of Mariposa. J. B. Weldon, clerk, Little Britain P. O.

Removal of Fences From Highway

327—J. C. C.—One of the main travelled roads in this township is the highway extending from Niagara Falls West, I think to St. Thomas, and which has no doubt been used as a highway for sixty or seventy years. Here it is called the Canboro Road, and further west I believe it is known as Talbot street. For three-quarters of the way across this township it is not upon any original road allowance, and the road is constantly getting narrower because of property owners moving out from time to time as they rebuild their fences. In some places the road is as narrow as 35 feet. Complaints of this encroachment are frequently heard and some advise that these trespassers be compelled to widen the road to its former dimensions. Does the statute prescribe any maximum or minimum width for an old established given highway such as this in a township? Can we compel these people to move back? How?

Section 630, which deals with the width of roads, hardly seems to apply to a road long in use, but rather to roads now being laid out.

If this road is only a trespass road, the public are entitled to hold, as against adjoining private owners of land, only such portion as has been, and is being, travelled as a public highway. We are inclined to think, however, that, if the road is a continuation of the Talbot Road, as you suggest, it has been, at some time, regularly laid out and surveyed by the government. If this is a fact, its width and limits would be fixed by the survey. The report and field notes of the engineer

who did this work will easily be found in the office of the Crown Lands Department, in Toronto. A search should be made in this and in the registry office in the county, and for the road reports of quarter sessions and by-laws of old district or county council. These may be in office of clerk of peace or clerk of county council. And as soon as the correct limits of the road have been ascertained, the council should pass a by-law providing for the removal of all such fences as have been erected, and are now standing on the highway.

Agreement as to Maintenance of Townline—Opening of Road in Lieu of Townline—Repeal of By-law Abolishing Dog-Tax.

328—C. B.—1. Nearly five years ago our council agreed with the adjoining municipality to divide the townline. Commissioners were appointed by both councils to meet and decide the matter. They divided townline as per diagram, then tossed up for choice. The adjoining municipality won and took the north portion, our municipality having to accept the south side of all the portions opened up and travelled. A by-law was passed by both councils accepting the divisions as above given. There was no time specified how long this agreement should exist. Now the present council are dissatisfied finding they have to keep in repair the more expensive portion and desire to break the agreement so made. Can the council do so by notifying the adjoining municipality of the fact, and also pass a by-law to repeal the former by-law which confirmed the agreement? If not the proper course, what proceeding ought to be taken in the matter?

2. On account of existing difficulties in putting our portion of townline in reasonable repair, the cost of which would be excessive, the council were desirous of opening a new road about 200 acres west of townline in lieu of same, as a splendid road could be purchased and kept in good repair for a much less sum. A deputation of our council met the council of the adjoining municipality and agreed to the proposition, but since the council of the adjoining municipality met, they, through their clerk, declined to take any action in the matter of closing the old townline road, who duly notified our municipality of the same. Would not our council be held responsible for any damage which might occur on our portion of townline if they abandoned the townline when the new road had been legally established? and would not they be compelled to keep said portion of townline in reasonable repair as well as the purchased road the adjoining municipality refusing to take action in the matter of closing of this portion of the townline?

3. Some ten years ago the then council on the petition of the requisite number of ratepayers asking that the tax on dogs be abolished, passed a by-law giving effect to the petition, since then no tax has been levied. The present council are desirous of reviving the act imposing the tax on dogs. Can the council on its own motion, pass a by-law repealing the by-law abolishing the tax, or will it require a petition of the ratepayers asking for the repeal of the said by-law?

1. Councils of adjoining municipalities may, under section 625, of the Municipal Act, enter into an agreement for dividing a townline in the manner therein mentioned, for any term of years not exceeding ten years. If the agreement and by-laws in the case did not specify any term, we think the agreement is simply one at will, and either council can pass a by-law putting an end to it.

2. The council will be liable in damages